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MONTANA LEGISLATIVE HISTORY

Chapter 160 1987

Bill H 343 S _____ Original bill & history ✓ C

H. Committee on Natural Resources		S. Committee on Natural Resources	
Hearing Date(s) 1/28	✓ C	Hearing Date(s) 3/6	✓ C
~~2/4~~	___ C	~~2/5~~	___ C
_____	___ C	_____	___ C
_____	___ C	_____	___ C
Date Out _____	___ C		

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

House BILL NO. 343

INTRODUCED BY Lindeen

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A REBUTTABLE PRESUMPTION THAT DESIGNATIONS OF FLOODPLAINS AND FLOODWAYS MADE ACCORDING TO A FLOOD HAZARD BOUNDARY MAP ARE BASED ON REASONABLE HYDROLOGICAL CERTAINTY; AMENDING SECTION 76-5-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-5-202, MCA, is amended to read:

"76-5-202. Designation of floodplains and floodways. (1) When sufficient data has been acquired by the department, the board shall establish, by order after a public hearing, the designated floodplain within which a political subdivision may establish land use regulation.

(2) When sufficient data has been acquired, the board shall establish, by order after a public hearing, the designated floodway within which a political subdivision may establish land use regulation.

(3) These designations shall be based upon reasonable hydrological certainty. Designations made according to a flood hazard boundary map prepared by the federal emergency management agency have a rebuttable presumption of reasonable hydrological certainty.

(4) The department shall record all designated floodplains or designated floodways established by the board in the office of the county clerk and recorder of each county in which those floodplains or floodways are found."

NEW SECTION. Section 2. Extension of authority. Any existing authority of the board of natural resources and conservation to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 3. Effective date. This act is effective on passage and approval.

-End-

INTRODUCED BILL

HB-343

HOUSE BILL NO. 343

INTRODUCED BY DONALDSON

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

IN THE HOUSE

ANUARY 21, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
EBRUARY 14, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
EBRUARY 16, 1987	PRINTING REPORT.
EBRUARY 17, 1987	SECOND READING, DO PASS.
EBRUARY 18, 1987	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 81; NOES, 4.
	TRANSMITTED TO SENATE.

IN THE SENATE

EBRUARY 19, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
ARCH 7, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
ARCH 12, 1987	SECOND READING, CONCURRED IN.
ARCH 14, 1987	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

ARCH 14, 1987	RECEIVED FROM SENATE.
	SENT TO ENROLLING.

HB 341 INTRODUCED BY KADAS
REVISING PROCEDURES FOR SCHOOL LEVY ELECTIONS

1/21	INTRODUCED		
1/21	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/30	HEARING		
2/11	TABLED IN COMMITTEE		

HB 342 INTRODUCED BY KADAS
CHANGING THE SCHOOL ELECTION DAY TO THE FIRST MONDAY IN JUNE

1/21	INTRODUCED		
1/21	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/30	HEARING		
2/11	TABLED IN COMMITTEE		

HB 343 INTRODUCED BY DONALDSON
GIVES A REBUTTABLE PRESUMPTION TO CERTAIN FLOODWAY AND FLOODPLAIN DESIGNATIONS
BY REQUEST OF DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

1/21	INTRODUCED		
1/21	REFERRED TO NATURAL RESOURCES		
1/28	HEARING		
2/14	COMMITTEE REPORT--BILL PASSED		
2/17	2ND READING PASSED	88	3
2/18	3RD READING PASSED	81	4
	TRANSMITTED TO SENATE		
2/19	REFERRED TO NATURAL RESOURCES		
3/06	HEARING		
3/07	COMMITTEE REPORT--BILL CONCURRED		
3/12	2ND READING CONCURRED	49	0
3/14	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE		
3/17	SIGNED BY SPEAKER		
3/17	SIGNED BY PRESIDENT		
3/18	TRANSMITTED TO GOVERNOR		
3/22	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 160 EFFECTIVE DATE: 3/22/87		

HB 344 INTRODUCED BY ASAY, ET AL.
REVISE TIME LIMITS FOR MEDICAL MALPRACTICE ACTIONS

1/21	INTRODUCED		
1/21	REFERRED TO JUDICIARY		
2/09	HEARING		
2/21	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/24	2ND READING PASSED	98	1
2/24	3RD READING PASSED	97	2
	TRANSMITTED TO SENATE		
3/02	REFERRED TO JUDICIARY		
3/18	HEARING		
3/20	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/24	2ND READING CONCURRED AS AMENDED	47	2
3/26	3RD READING CONCURRED	48	2
	RETURNED TO HOUSE WITH AMENDMENTS		
4/07	2ND READING AMENDMENTS CONCURRED	86	0

4/08	3RD READING AMENDMENTS CONCURRED	88	1
4/10	SIGNED BY SPEAKER		
4/10	SIGNED BY PRESIDENT		
4/10	TRANSMITTED TO GOVERNOR		
4/15	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 499 EFFECTIVE DATE: 10/01/87		

HB 345 INTRODUCED BY MCCORMICK, ET AL.
REVISE BOND AMOUNT THAT WORKERS' COMPENSATION PLAN NO. 2 INSURERS MUST DEPOSIT WITH THE DIVISION TO GUARANTEE PAYMENT OF LIABILITY
BY REQUEST OF DIVISION OF WORKERS' COMPENSATION

1/21	INTRODUCED		
1/21	REFERRED TO BUSINESS & LABOR		
2/02	HEARING		
2/02	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/04	2ND READING PASSED		
2/05	3RD READING PASSED	98	2
		94	3
	TRANSMITTED TO SENATE		
2/10	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
3/10	HEARING		
3/11	COMMITTEE REPORT--BILL CONCURRED		
3/16	2ND READING CONCURRED	50	0
3/18	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE		
3/21	SIGNED BY SPEAKER		
3/23	SIGNED BY PRESIDENT		
3/23	TRANSMITTED TO GOVERNOR		
3/27	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 242 EFFECTIVE DATE: 10/01/87		

HB 346 INTRODUCED BY WALLIN
LIVESTOCK BUYER TAKES FREE OF SECURITY INTEREST IF OWNERSHIP FALSIFIED

1/21	INTRODUCED		
1/21	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIGATION		
2/11	TABLED IN COMMITTEE		

HB 347 INTRODUCED BY HARPER, ET AL.
INCREASE AUTHORITY OF DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES TO ENFORCE LAWS PROTECTING PUBLIC WATER SUPPLIES
BY REQUEST OF DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES

1/21	INTRODUCED		
1/21	REFERRED TO HUMAN SERVICES & AGING		
1/29	HEARING		
1/29	COMMITTEE REPORT--BILL NOT PASSED AS AMENDED		
1/30	REREFERRED TO HUMAN SERVICES & AGING		
2/16	TABLED IN COMMITTEE		

HB 348 INTRODUCED BY HARPER, ET AL.
PUBLIC WATER SUPPLY PROTECTION -- APPROVAL OF DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES FOR CONSTRUCTION
BY REQUEST OF DEPARTMENT OF HEALTH &

MINUTES OF THE MEEITNG

NATURAL RESOURCES COMMITTEE

HOUSE OF REPRESENTATIVES

50TH LEGISLATIVE SESSION

1987

Committee Members	District
Rep. Tom Jones, Chairman	4
Rep. Clyde Smith, Vice Chairman	5
Rep. Kelly Addy	94
Rep. Tom Asay	27
Rep. John Cobb	42
Rep. Ben Cohen	3
Rep. Ed Grady	47
Rep. John Harp	7
Rep. Hal Harper	44
Rep. Mike Kadas	55
Rep. Al Meyers	53
Rep. Joan Miles	45
Rep. Mary Lou Peterson	1
Rep. Bob Raney	82
Rep. Rande Roth	96
Rep. Angela Russell	99
Rep. Bruce Simon	91
Rep. Bill Strizich	41

SECRETARY

Lisa Routzhan

Staff

Hugh Zackheim, EQC

STATUS SHEET

50th LEGISLATIVE SESSION

NATURAL RESOURCES COMMITTEE

HOUSE BILL NUMBER	ENTERED COM. DATE	DATE CON-SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON-CURRED IN DATE	BE NOT CON-CURRED IN DATE	BE CON-CURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
56	1/7/87	1/7/87	1/7/87	Reassinged to another committee.							
154	1/19/87	1/19/87	1/21/87	tabled							
208	1/21/87	1/2/187	1/23/87			1/23/87					
230	1/23/87	1/23/87	1/23/87			1/23/87					
246	1/23/87	1/23/87	2/13/87			2/13/87					
290	1/26/87	1/26/87	1/26/87	1/26/87							
308	1/28/87	1/28/87	2/2/87	2/2/87							
328	1/26/87	1/26/87	2/2/87		2/2/87						
343	1/26/87	1/28/87	1/28/87	1/28/87							
358	1/30/87	1/30/87	2/9/87			2/9/87					
370	1/28/87	1/28/87	2/9/87	(1/28/87 to subcommittee)		2/9/87					
388	1/28/87	1/28/87	1/28/87			1/28/87					
297	1/30/87	1/30/87	2/11/87			2/11/87					
404	1/30/87	1/30/87	2/6/87			2/6/87					

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

MINUTES OF THE MEETING
NATURAL RESOURCES
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

January 28, 1987

The meeting of the Natural Resources Committee was called to order by Chairman Tom Jones on January 28, 1987, at 1:00 p.m. in Room 312 of the State Capitol.

ROLL CALL: All committee members were present, with the exception of Rep. Harp who was absent.

HOUSE BILL NO. 343: Rep. Gene Donaldson, District 43, sponsor, stated HB 343 is at the request of the Department of Natural Resources and deals with the ability to establish flood plains and flood ways, and the storage of this accumulated data showing how far the water may have risen. Many cases now, have seen development in perhaps creeks and streams, but we do not have the historical data. This bill would allow them to use the Federal Emergency Management Agency maps (FEMA) established to determine the level of water in these flood plains and flood ways. This bill merely simplifies the establishment of floodplains for the purposes of planning for types of insurance that may be necessary.

PROPONENTS: Rick Bondy, Chief of Engineering Bureau for the Department of Natural Resources, stated HB 343 would help in their management of Montana's flood plains. The goal of their floodplain management program is to reduce the need for flood disaster systems to people that have damage caused by floods. They estimate that floodplain management regulations reduce the costs of damages caused by floods by approximately 70%. They are trying to keep the counties in compliance with federal law, so they can, in fact, receive federal disaster assistance, and the people in these counties can get flood insurance. This can be difficult for counties because the maps provided to them by the Federal Emergency Management Agency do not meet current state standards. It is simply too expensive to go out and meet those standards for floodplain regulations when no one really cares about the situation anyway. We have proposed reducing the standards to which we could include the floodplains and to compensate and keep our delineations from being unreasonable.

JIM HENRY, representing the Emergency Disaster Services Division, stated their agency coordinates both federal and state disaster assistance programs, and they feel by allowing the counties to better regulate their floodplains, in

order to get into the National floodplains insurance program, will assist in the overall effort of reducing the cost of the taxpayer in disaster assistance. If the flood insurance program is made available to residents in these counties, when a disaster did occur and they did get flooded out, their first course for repair and reconstruction would be covered by the insurance program. We feel this will help the counties get into the program and reduce the work load and the cost to the taxpayer.

NO OPPONENTS

REP. SIMON wondered how the FEMA maps were designed.

MR. BONDY stated they are drawn using aerial photography using U.S.G.S. guad sheets. They are based on topography that is taken from maps, rather than topography that is actually measured in the field.

REP. SIMON wanted to know if it was true, that some of these maps were drawn by simply looking at these aerial photographs and by looking at the vegetation along the stream banks, including no field data that could be considered accurate. Mr. Bondy stated yes, this is true.

REP. SIMON stated, he felt, as taxpayers, everyone has the right to fight these kinds of maps being used with inaccurate data and wanted to know if they have had this circumstance occur already.

MR. BONDY stated the idea behind the bill is that we would be using the maps mentioned; however, it would be made easier for the affected landowner to come in and dispute the use of these maps with the department. That is the entire reason for lowering the standards.

REP. HARPER asked Mr. Henry regarding the section of law that charges your department with drawing and designating floodplains and floodways, and according to the way the law reads now, you must go on site to collect enough data to be able to assure these estimations with reasobalee hydrological certainty. He then asked, if this bill is passed, would their responsibility be done as soon as they had photocopies of those maps and held a public hearing. He also wanted to know how accurate these maps will be, since they will now be the basis of their operation.

MR. HENRY stated he is somewhat out of his element regarding the maps; however, when the maps were first presented starting the process, there were some imperfections with them. He stated those kinds of things are starting to improve. Their area of expertise is disaster recovery and

the coordination of disaster assistance to flood victims. Their concern is, if it is easier for people to get flood insurance, then there are less impacts on the taxpayers and the programs they are provided after they have been flooded.

REP. DONALDSON closed by stating this is a bill simplifying the area of the Department of Natural Resources to determine where a flood plain is using less expensive field surveys and to eventually use updated and accurate FEMA maps enhancing the ability of the public to be involved.

HEARING CLOSED ON HB 343.

HOUSE BILL NO. 308: Rep. Joan Miles, District 45, sponsor, stated this proposal provides for exempting another set of dams. It is not just exempting them because they already come under another permitting process, and this includes dams that are part of major facilities that are certified and permitted under the Major Facility Siting Act. Under existing language, technically, if the power company wants to build a new power plant in the state, and a dam is part of that power plant, they would have to have the entire facility permitted under the Major Facility Siting Act and the dam portion of it permitted under the Dam Safety Act. Rep. Miles stated that is just too many "dam" permits. So this alleviates one step, which also keeps costs down.

PROPONENTS: Han Kelly, representing the Montana Water Development Association, gave background on the Safety of Dams Act. He stated he found out that these dams, under the Majority Facility Siting Act, were not exempted. He stated it was their intention, under the Safety of Dams Act, that they be exempt, and at one time they were. However, the bill was rewritten so many times in order to satisfy statelands and some of the engineering firms, it inadvertently was left out. He stated the Water Development Association supports this change and thinks those dams should be exempted from the Safety of Dams Act in order to be consistent and not interfere with the Major Facility Siting Act.

ART WITTICH, representing Montana Power Company, submitted testimony (Exhibit 2). He stated the Montana Dam Safety Act (DSA) was enacted in 1985 to provide for the safe construction and maintenance of certain dams. The DSA presently recognizes exemptions for dams covered by a mining operation permit or those dams licensed by the Federal Energy Regulatory Commission. This bill adds a third exemption for dams certified under the Montana Major Facility Siting Act (MSFA), which is also operated under current engineering standards and subject to regulatory review by the Montana Department of Natural Resources and Conservation. An

Chairman Jones appointed a subcommittee for HB 370 including Reps. Asay, Cobb and Harper.

HOUSE BILL NO. 343: Rep. Smith moved HB 343 DO PASS. Question was then called, the motion CARRIED, with Reps. Meyers and Simon voting NO.

ADJOURNMENT: There being no further business to come before the committee, the hearing was adjourned at 2:15 p.m.

TOM JONES, Chairman

DAILY ROLL CALL

NATURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jan. 28, 1987

NAME	PRESENT	ABSENT	EXCUSED
TOM JONES, CHAIRMAN	X		
CLYDE SMITH, VICE CHAIRMAN	X		
KELLY ADDY	X		
TOM ASAY	X		
JOHN COBB	X		
BEN COHEN	X		
ED GRADY	X		
JOHN HARP			X
HAL HARPER	X		
MIKE KADAS	X		
AL MEYERS	X		
JOAN MILES	X		
MARY LOU PETERSON	X		
BOB RANEY	X		
RANDE ROTH	X		
ANGELA RUSSELL	X		
BRUCE SIMON	X		
BILL STRIZICH	X		
STAFF: EQC HUGH ZACKHEIM			

CS-30

STANDING COMMITTEE REPORT

FEBRUARY 13 19 87

Mr. Speaker: We, the committee on NATURAL RESOURCES

report [redacted]

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

REP. TOM JONES
Chairman

"AN ACT PROVIDING A REBUTTABLE PRESUMPTION THAT DESIGNATIONS OF FLOODPLAINS AND FLOODWAYS MADE ACCORDING TO A FLOOD HAZARD BOUNDARY MAP ARE BASED ON REASONABLE HYDROLOGICAL CERTAINTY; AMENDING SECTION 76-5-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

FIRST WHITE
_____ reading copy (_____)
color

EXHIBIT 11
DATE 1-28-87
HB 343

STATEMENT OF INTENT
HOUSE BILL NO. 343

This bill requires a statement of intent because it extends the existing authority of the Board of Natural Resources and Conservation to make rules regulating the designation of floodplains and floodways. The purpose of this act is to allow the Board of Natural Resources and Conservation to use maps prepared by the Federal Emergency Management Agency (FEMA) to meet the requirement of hydrological certainty in designating floodplains and floodways. Rules adopted by the Board under this act should describe the maps prepared by the FEMA which are used to help designate floodplains and floodways. Presently, these maps are referred to as flood hazard boundary maps, however, that designation may be changed by FEMA for future designations. The rules adopted by the Board should be periodically updated to reflect the nomenclature given to the maps developed by the federal entity.

VISITORS' REGISTER

NATURAL RESOURCES COMMITTEE

BILL NO. HB 308; HB 343; HB 370; HB 388 DATE JANUARY 28, 1987

SPONSOR MILES, DONALDSON, ASAY

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
K.M. Kelly	Helena - MWDA	✓	
Richard Bondy	Helena	+	
Steve Welch	Helena		
Gary Amestoy	Helena - DSL	370 ✓	
Jan Henry	DIV of D.E.S HB 343	✓	
Art Wittich	MPC - Butte	✓ 308	
John C. VanDaveer	MPC - Butte	✓ 308	
Rick Meis	MT Environmental Info Center	✓ 308	
Gene Phillips	PP&L	✓ 308	
Don McIntyre	DNRC	✓	
Laurence Siroky	DNRC	x HB 308	
Greg. Ochenski	MT. ENV. INF. CNTR	SUPPORT 370 W/AMEND.	
Lee Heiberg	DNRC Water Resources	HB 343	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

CS-33

MONTANA STATE SENATE

NATURAL RESOURCES

- -

50th LEGISLATURE

- -

COMMITTEE MEMBERS: Senator Thomas F. Keating, Chairman
Senator Cecil Weeding, Vice Chairman
Senator John Anderson
Senator Delwyn Gage
Senator Mike Halligan
Senator Sam Hofman
Senator J.D. Lynch
Senator Elmer Severson
Senator Lawrence Stimatz
Senator Larry Tveit
Senator Mike Walker
Senator William Yellowtail

STAFF ATTORNEY: Gail Kuntz

COMMITTEE SECRETARY: C. Nadine McCurdy

- -

BOOK: 1 of 3

INCLUSIVE DATES: January 7, 1987, through February 9th, 1987

Some copies in this volume are not clear. Some exhibits in this volume are not complete. If you encounter either of these problems, please check at the front desk for copies on microfiche.

MONTANA LEGISLATIVE ...NCIL BILL STATUS SYSTEM
FINAL COMMITTEE REPORT OF REFERRED BILLS
COMMITTEE--(S) NATURAL RESOURCES

CHAIRMAN--SEN. TOM KEATING
NORMAL SCHEDULE==> SITE: ROOM 405 DAYS: M-W-F TIME: 1:00 P.M.
SECRETARY-NADINE MCCURDY

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES----------	COMMITTEE ACTION----------	REREFERRED TO COMM----	DATE OUT-
HB0208	2/02	3/04		CONCUR		3/4
ADDY, KELLY			ALLOWING STATE OIL LESSEES TO DEDUCT PROPORTIONALLY OIL TRANSPORTATION COSTS			
HB0230	1/30	2/11		CONCUR		
HANSON, MARIAN		2/24	AN ACT TO GENERALLY REVISE THE STRIP AND UNDERGROUND MINE RECLAMATION ACT			2/24
HB0239	2/02	3/04		CONCUR		3/4
BRANDEWIE, RAY			REVISE COORDINATE SYSTEM USED FOR LAND SURVEYS			
HB0246	2/21	3/11		CONCUR		3/11
COBB, JOHN			REQUIRING WELL-SPACING UNIT; POOLING APPLICANTS TO GIVE ACTUAL NOTICE			
HB0290	1/30	3/04		CONCUR		3/4
SPAETH, GARY			AUTHORIZES DNRC TO ISSUE PERMITS FOR LARGE GROUNDWATER USES IN CARBON COUNTY			
HB0308	2/10	3/06		CONCUR		3/6
MILES, JOAN			EXEMPTS DAMS FROM THE DAM SAFETY ACT THAT ARE SUBJECT TO THE MFSA			
HB0343	2/19	3/06		CONCUR		3/6
DONALDSON, GENE			GIVES A REBUTTABLE PRESUMPTION TO CERTAIN FLOODWAY & FLOODPLAIN DESIGNATIONS			
HB0358	2/16	3/18		CONCUR		3/18
BARDANOUVE, FRANCIS			REVISE USE OF WATER DEVELOPMENT FUNDS			
HB0370	2/17	3/11		CONCUR		3/11
ASAY, TOM			GENERALLY REVISES LAWS RELATING TO THE OPENCUT MINING ACT			
HB0388	2/05	3/09		CONCUR AS AMENDED		3/9
ASAY, TOM			CLARIFIES THE DETERMINATION OF MARKET VALUE OF WATER PROJECTS			
HB0397	2/23	3/11 3/16		CONCUR AS AMENDED		3/16
SPAETH, GARY			INCREASES THE KILOVOLT THRESHOLD FOR TRANSMISSION LINES UNDER THE MFSA			

MINUTES OF THE MEETING
NATURAL RESOURCES COMMITTEE
MONTANA STATE SENATE

March 6, 1987

The meeting of the Senate Natural Resources Committee was called to order by Vice Chairman Cecil Weeding on March 6, 1987, in Room 405 of the State Capitol at 1:05 P.M.

ROLL CALL: All members were present with the exceptions of Senator Keating, who was excused, and Sens. Yellowtail and Walker, who were absent.

CONSIDERATION OF HOUSE BILL 308: Representative Joan Miles, District 45, introduced HB 308 which would exempt dams from the Dam Safety Act that are subject to the Montana Facility Siting Act (MFSA); such as, Colstrip III and Colstrip IV. Rep. Miles explained that two years ago when the Dam Safety Act was passed by Legislature, there were several exemptions--dams that are permitted under mine permits; dams that are permitted under the Federal Energy Regulatory Commission; and dams that are under the Corps of Engineers. What HB 308 does, Rep. Miles repeated, is to exempt dams from the Dam Safety Act that are subject to the MFSA. Rep. Miles reported that there was concern in the House Natural Resources Committee about oversight of dams that are constructed and the safety questions, but it was Rep. Miles' contention that permits issued under the siting act cover this area very well; in fact, Colstrip III and IV are doing more on a daily basis than the Dam Safety Act requires.

PROPONENTS: Art Wittich, Montana Power Company, testified in support of HB 308 and he assured committee that certified facilities under the MFSA are designed and maintained by professional engineers, and there is thorough oversight by the Department of Natural Resources (Exhibit 1).

Jo Brunner, Executive Secretary of the Montana Water Development Association (MWDA) said that MWDA helped draft the Dam Safety Act two years ago, and that duplication of permits was never intended. Ms. Brunner stated that MWDA wholeheartily supported HB 308.

Lawrence Siroky, DNRC, clarified the department's position and said the proposed change in HB 308 would be consistent with other exemptions in the Dam Safety Act. The Dam Safety Act does not regulate dams that are licensed and subject to inspection by the Federal Energy Regulatory Commission anyway. (Exhibit 2)

OPPONENTS: There were no opponents.

QUESTIONS (AND OR DISCUSSION) FROM THE COMMITTEE: Sen. Halligan asked if a retroactive applicability is needed to cover Colstrip. Mr. Wittich said he had really never thought about that before, but bill emphatically states that the facility would have to have a certificate in effect at the time to be qualified for the exemption. Rep. Miles addressed Sen. Halligan's question by saying that permits for Colstrip were issued prior to the Dam Safety Act enactment which did not require retroactive permits.

CLOSING: Rep. Miles closed by asking that HB 308 be carried by Sen. Lynch.

CONSIDERATION OF HOUSE BILL 343: Representative Gene Donaldson, District 43, introduced HB 343 by explaining that the bill would make it a little easier to determine floodplains and allow establishment of boundaries of a floodplain by use of aerial photos, etc. This would save a lot of effort, time, and expense in establishing boundaries of floodplains. Mr. Donaldson explained that in populated areas, there are 100-year flood data to indicate where the floodplain would lie, but in sparsely populated areas where there are developments on small creeks, there are no historical data. Therefore, it would be less expensive to establish floodplains by the method as covered under HB 343 rather than sending out survey crews, etc. Rep. Donaldson quoted from the bill, "These designations shall be based upon reasonable hydrological certainty. Designations made according to a flood hazard boundary map prepared by the Federal Emergency Management Agency have a rebuttable presumption of reasonable hydrological certainty."

PROPONENTS: Gary Fritz, DNRC, stated that the bill would allow counties who desire to be involved in the floodplain regulation program to get into the program by use of approximate maps because maps would be the only ones available to identify the floodplain. HB 343 would allow counties to have floodplains designated through the Board of Natural Resources with the use of these approximate maps. Mr. Fritz listed two reasons counties would want to have floodplains designated:

1) Citizens at the present time are not able to develop on flood-prone areas if they need a loan from a bank because banks will not loan money to build improvements without proof of flood insurance. Developers cannot buy flood insurance unless their counties are enrolled in the National Flood Insurance Program.

2) It is to the benefit of the counties to be enrolled in the National Flood Insurance Program because counties can only receive disaster aid from the State if they are enrolled in the program.

Jo Brunner, Water Development Association, expressed support of HB 343.

OPPONENTS: There were no opponents to HB 343.

QUESTIONS (AND/OR DISCUSSION FROM THE COMMITTEE): Sen. Weeding asked Rep. Donaldson what "presumption" means in terms of burden on landowner who would be disgruntled with a designation.

Don McIntyre replied for Rep. Donaldson and said that evidence can be put forward by the landowner to show that a map is incorrect.

Sen. Stimatz volunteered to carry HB 343 on the Senate floor if committee chose to concur.

Sen. Weeding called the meeting to order for an Executive Session.

DISPOSITION OF HOUSE BILL 308: Sen. Halligan moved that HB 343 BE CONCURRED IN. Motion CARRIED unanimously.

DISPOSITION OF HOUSE BILL 343: Sen. Gage moved that HB 308 BE CONCURRED IN, and motion CARRIED unanimously.

There being no further business before the committee, Sen. Weeding adjourned the meeting at 1:20 P.M.

Cecil Weeding, Vice Chairman

nm

ROLL CALL

NATURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date March 6

NAME	PRESENT	ABSENT	EXCUSED
Sen. Tom Keating, Chairman			X
Sen. Cecil Weeding, Vice Chairman	X		
Sen. John Anderson	X		
Sen. Mike Halligan	X		
Sen. Delwyn Gage	X		
Sen. Lawrence Stimatz	X		
Sen. Larry Tveit	X		
Sen. "J.D." Lynch	X		
Sen. Sam Hofman	X		
Sen. William Yellowtail		X	
Sen. Elmer Severson	X		
Sen. Mike Walker		X	

Each day attach to minutes.

DATE March 6, 1987

COMMITTEE ON Natural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
ART WITTICH	MPC	308	✓	
BOB HELDING	MT. ASSOC. OF REALTORS	343	←	
Jerry Elsaesser	self			
Debi Brammer	MT Assn of Conservation Districts	308 343	✓	

(Please leave prepared statement with Secretary)

STANDING COMMITTEE REPORT

March 6 19 87

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE BILL No. 343

THIRD reading copy (BLUE color)

GIVES A REBUTTABLE PRESUMPTION TO CERTAIN FLOODWAY AND FLOODPLAIN DESIGNATIONS

DONALDSON (Stimatz)

Respectfully report as follows: That HOUSE BILL No. 343

BE CONCURRED IN

DO PASS

DO NOT PASS

Cecil Weeding, Vice-Chairman

SENATOR THOMAS F. KEATING, Chairman.